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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/645,580

08/22/2003

Sean Anderson

8229

7590

08/23/2004

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EXAMINER

MENDOZA, ROBERT J

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/645,580

Applicant(s)

ANDERSON ET AL.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**Information Disclosure Statement**

The information disclosure statement filed 08/22/2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

**Claim Objections**

Claims 1-20 are objected to because of the following informalities: claim 1, line 22, delete "20B – 20F". Appropriate correction is required.

**Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said firing mechanism" in claim 1, line 1. There is insufficient antecedent basis for this limitation in the claim.

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Claims 6-8, 10 and 11 recite the limitation "said narrow rectangular housing" in the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "said thin, elongated enclosure" in claim 14, line 2. There is insufficient antecedent basis for this limitation in the claim.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3-5, 9, 12, 14-16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Small et al (USPN 5,904,621).**

Small, in FIGS. 1-3, col. 2:10-67, col. 3:35-67 and col. 4:1-67, discloses an electronic game of tag comprising at least two firing units, each of the firing units comprising a housing, at least one button emerging from the top of the housing and a plurality of lights emerging from the housing. Small, in FIGS. 1-5 col. 3:35-67, col. 4:1-67, col. 5:32-64, col. 6:21-67 and col. 7:23-45, discloses a sound emitter, an infrared transmitter capable of transmitting a data packet, an infrared receiver, a circuit board, a power supply, an encoded transmission signal and a microprocessor capable of decoding the data packet. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:21-67 and col. 7:23-45, discloses wherein when said infrared receiver of a first said firing unit detects said data packet from said infrared transmitter of a second said firing unit, transmits said data packet, said infrared receiver of said first said firing

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unit passes a signal of said data packet to said microprocessor where said data packet is decoded into an action selected from the group consisting of fire action type, opponent score type, and opponent score query type. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:21-67 and col. 7:23-45, discloses store the opponent's hit score contained in the message, update internal count of hits, update green score LEDS with this internal count; and plays a sound, whereupon the first said microprocessor then transmits via the infrared transmitter an opponent score type data packet. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:4-67 and col. 7:23-45, discloses the microprocessor recognizes that the hit count has reached the maximum, a unique sound is played and the hit count resets to zero. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:4-67, col. 7:23-67 and col. 8:1-12, discloses the receipt of an opponent score packet causes the receiving unit to test for a win condition against the opponent and wherein the firing unit plays a special victory sound when a win condition exists. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:4-67, col. 7:23-67 and col. 8:1-12, discloses the circuit board is sandwiched between the button and the lights and a common surface shared by the infrared transmitter and the infrared receiver. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:4-67, col. 7:23-67 and col. 8:1-12, discloses the housing has partitions between the infrared transmitter and the infrared receiver and the encoded signal is an asymmetrical transmission pattern. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:4-67, col. 7:23-67 and col. 8:1-12, illustrates and discloses the button is recessed in relationship to the plane of the thin, elongated enclosure and the plurality of lights are located forward of the button. Small, in FIGS. 1-5, col. 2:28-42, col. 3:35-67, col. 4:1-67, col. 5:1-64, col. 6:4-67, col. 7:23-67

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and col. 8:1-12, discloses wherein the infrared transmitter and the infrared receiver are forward of the button, and the bottom face has a plurality of holes.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2, 6-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Small et al. (USPN 5,904,621) in view of Norman et al(USPN 5,702,305).**

The disclosure of Small has been discussed above and is, therefore, incorporated herein. As discussed above, Small discloses all the functional properties and components disclosed in the claim limitations. However, Small lacks in disclosing the narrow rectangular structure shape of the miniature game of electronic tag. Norman, in an analogous invention, teaches a plurality of narrow rectangular hand-held transceivers that exchange game information using infrared technology (FIGS. 1-3, col. 2:33-55, col. 6:15-26 and col. 7:30-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Norman into the disclosed invention of Small. One would be motivated to combine the teachings of Norman with the disclosed invention of Small in order to, provide players with a laser tag apparatus that is easily transportable, and minimize that the amount of space needed to store the laser tag apparatus.

**Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Small in view of White (USPN 5,388,691).**

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The disclosure of Small has been discussed above and is, therefore, incorporated herein. Small lacks in disclosing a key ring attached to the housing. White, in FIG. 1:36 and col. 2:45-51, the case of the remote control transmitter has a key chain ring extending from the case. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of White into the disclosed invention of Small. One would be motivated to combine the teachings of White with the disclosed invention of Small in order to eliminate the necessity of constantly holding the laser tag apparatus and provide means for a player to easily carry the laser tag apparatus.

**Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Small.**

The disclosure of Small has been discussed above and is, therefore, incorporated herein. As discussed above, Small discloses a battery source that provides power to the laser tag apparatus. Small lacks in explicitly disclosing a cell battery that has a nominal capacity of less than 1000 milliampere hours of electricity. It is well known in the art to utilize batteries that have a sufficient amount of ampere-hours (or watt-hours) to operate an electronic apparatus. The claim limitation of having a cell battery with a nominal capacity of less than 1000 milliampere hours of electricity is simply a design choice and does not provide a critical improvement or an inventive idea to overcome the disclosure of Small. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a cell battery having a nominal capacity of 1000 milliampere hours of electricity in order to, provide sufficient power needed to operate the miniature laser tag apparatus, and facilitate players in replacing the batteries that are no longer outputting adequate power.

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**Conclusion**

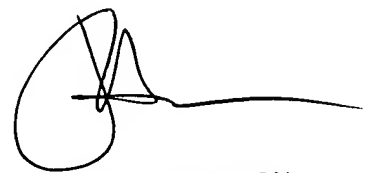
Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, John Hotlaing, can be reached at (703) 305-0870. The USPTO official fax number is (703) 872-9306.

RM

RM

August 18, 2004

A handwritten signature in black ink, appearing to be 'JH' with a long horizontal line extending to the right.

JESSICA HARRISON  
PRIMARY EXAMINER